

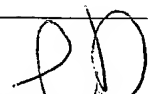


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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,310	09/29/2003	Klaus Heilmann	2565/112	5354
26646	7590	07/01/2004	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			KIM, SUN U	
			ART UNIT	PAPER NUMBER
			1723	
DATE MAILED: 07/01/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/675,310	Applicant(s) HEILMANN ET AL.	
	Examiner John Kim	Art Unit 1723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 55-126 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 55-67, 69-81, 83-95, 97-108, 110-119 and 121-126 is/are rejected.
- 7) ☒ Claim(s) 68, 82, 96, 109 and 120 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/464,605.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Applicant is reminded of the proper language and format for an abstract of the disclosure.

1. The abstract should be in narrative form and generally limited to **a single paragraph on a separate sheet within the range of 50 to 150 words**. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

New abstract is required.

2. Applicant is requested to update the status of parent application no. 09/464,605 to U.S.

Patent No. 6,641,731 on page 1 of the specification.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 55-64, 66-67, 69-78, 80-81, 83-92, 94-95, 97-105, 107-108, 110-117, 119 and 121-126 are rejected under 35 U.S.C. 102(b) as being anticipated by German Patent No. 3435883 (hereinafter referred to as GP '883). GP '883 teaches a dialyzer comprising a casing (12) containing hollow fibers and an end cap (24) attached to the casing (10) wherein the end cap (24) comprises a blood inlet channel (28) in axial direction relative to hollow fibers and curved members (50) arranged circumferentially and equidistant from each other to impart circular motion (see figures 1-2).

5. Claims 55-65, 67, 69-71, 76-79, 81 and 121 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,304,312 (hereinafter referred to as Forster et al). Forster et al

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teach a filter device comprising a casing (66) containing rolled fiber filters and an end cap (260) attached to the casing (66) wherein the end cap (260) comprises an inlet channel (280) in axial direction relative to fibers and members (288) arranged circumferentially and equidistant from each other to impart fluid in a radial direction (see figures 13-18; col. 7, line 57 – col. 9, line 49).

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 65, 79, 93, 106 and 118 are rejected under 35 U.S.C. 103(a) as being unpatentable over GP '883 as applied to claims 55, 69, 83, 97 and 110 above, and further in view of Forster et al. GP '883 teaches a dialyzer as described in above paragraph 4. Claims 65, 79, 93, 106 and 118 essentially differ from the apparatus of GP '883 in reciting that the member is integrally formed with the end cap. Forster et al teach that members (288) are integrally formed with the end cap (260) for providing structural support for the filter element while also providing channels for the transfer of fluid (see figures 6-7, 17-18; col. 6, lines 15-29; col. 9, lines 11-39). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the members of GP '883 to be integrally formed with the end cap to provide structural support for the filter element as suggested by Forster et al.

8. Claims 68, 82, 96, 109 and 120 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


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9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References cited in PTO-892 are the references cited in the parent application no. 09/464,605.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kim whose telephone number is (571) 272-1142. The examiner can normally be reached on weekdays from 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker, can be reached on (571) 272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


John Kim
Primary Examiner
Art Unit 1723

J. Kim
June 25, 2004